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Legal power of "Dati" land ownership rights related to land ownership certificates (Based on justice theory perspective)

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Abstract
The position of land in the national legal system is important so that its existence must be guaranteed and protected. Guaranteeing what is meant is the existence of legal certainty for land rights holders, both in the form of ownership rights and customary rights or land rights owned by Indigenous Peoples. In Law No. 5 of 1960 concerning Basic Agrarian Principles, it regulates land ownership rights based on land ownership certificates (SHM) and land ownership rights based on customary rights or what is called land land. In terms of land ownership, SHM has stronger legal certainty compared to land land, but in reality SHM on land has weak legal force compared to land land ownership so that it is canceled by the court. This study aims to Study and analyze the Legal Force of Land Ownership Rights against state land ownership certificates. The research method used is normative juridical, using a statutory regulatory, conceptual and legal principle approach. Land has legal force in indigenous communities, but in the national legal system, its legal status is often weak if not registered. Certificates of Ownership that have been issued can be canceled if they are proven to violate customary rights or issued without legal procedures.

Keywords: Legal power, dati land, certificate of ownership

Introduction

Land is a source of life for human beings, with land human beings can stand on in carrying out all their daily activities, and as we know that in reality land is an inanimate object but has a source of value and benefits of human life, absolutely cannot be separated from the land. They live on the land and obtain food by using the land. Land from ancient times to the future is phenomenal because land is a long-term investment need and becomes a bone of contention for the government, the private sector and the community from low level to high level communities, local and non-local communities, so customary land is always a bone of contention, whether it is land with ownership rights, use rights or customary land, these things always happen in people's lives.

The land in Ambon and the Lease Islands is customary land, subject to and controlled by the rights of the customary communities of the village or country concerned. The right of petuanan of a negeri on the mainland covers not only the land but also the forest with all its products. Tanah Dati, according to J. Gerard Fried Riedel, is land that is distributed to people who are strong in labor or heads of households with the condition that they must join the hongi.

Dati land is also land that was originally given to people who were obliged to carry out state duties, if the duties were carried out without wages and compensation, the dati get the right to use the dati land given by the state government.

Customary law communities that inhabit the entire territory of Indonesia have existed from the time of our ancestors until today. Customary communities, also known as traditional communities, are defined as customary communities that live with various customary rules that are maintained in the association of life in customary societies. Article 18B(2) of the 1945 Constitution states that: "The State recognizes and respects the unity of customary law communities and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the unitary state of the Republic of Indonesia as regulated by law".

Based on the provisions of the article, customary law communities are legally recognized by the state. As explained above, the existence of community life with land is a relationship between the land and its ruler, in this case the customary law community, in their daily lives carrying out their activities based on different rules and norms in accordance with the customary traditions adopted by each customary law community scattered throughout the soul of the Indonesian nation.

Government Regulation (PP) Number 18 of 2021 regulates Management Rights, Land Rights, Residential Units, and Land Registration. In article 4 paragraph 1, it is explained that "Management Rights originating from Ulayat Land are assigned to customary law communities." In general, people in the Ambon area and lease islands recognize three forms of land ownership rights, namely public land, land belonging to the clan (fam) or belonging to the eyes of the house (tanah dati), and land owned by the head of the family (*tanah pusaka*).

The enactment of Law No. 5/1960 on the Basic Regulation of Agrarian Principles (hereinafter referred to as UUPA) also abolished the dualism of Colonial Agrarian Law. Legal dualism is described in the formulation of customary law and western law that apply to lands in the territory of Indonesia. The elimination of legal dualism is realized in the principle of legal unification, which means that there is only one national agrarian law arrangement that applies in Indonesia. In the national agrarian law regulation, namely the UUPA, the principle of unification is embodied in Articles I to IX of the Second Part of the Conversion Provisions of the UUPA.

Based on the contents of Article 33 paragraph (3) of the 1945 Constitution, it explicitly explains that property rights

to land exist for all Indonesian people and the State is only given an authority to control, which means that it is only limited to having power over something or holding power or something, while ownership exists for all Indonesian people. The provisions of Article 33 paragraph (3) of the 1945 Constitution became the mandate for the formation of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (hereinafter referred to as UUPA). In Article 19 of the UUPA, the regulation of land registration is carried out by Government Regulation No. 24 of 1997. The purpose of land registration is to provide legal certainty of land rights.

Land registration will result in the provision of evidence of land rights commonly referred to as land certificates to the parties concerned and apply as a strong means of proof of the land rights held. Based on Government Regulation Number 24 of 1997 concerning Land Registration, the provisions of Article 32 paragraph (2), "In the event that a plot of land has been legally issued in the name of a person or Legal Entity." It is expressly stipulated in the UUPA and Government Regulation No. 24 of 1997 that to ensure legal certainty of land ownership, the land must be registered, but there are still many people, especially in rural areas who own land but do not have a certificate as proof of ownership of the land, because the land concerned has not been registered. In rural areas there are still many residents who own land with evidence only in the form of Petuk Pajak or Girik.

The practice in the field shows that there are many evidences other than Land Rights Certificates that are disputed until they become cases in the Judiciary. Some of them even resulted in decisions that have permanent legal force (Incraht Van Gewijsde) to cancel the Land Rights Certificate even though it has been more than 5 (five years). Such was the case between Bartholumeus Diaz and Nicolaas Herman Lelapary. Bartholumeus Diaz filed a lawsuit on December 27, 2023 at the Ambon District Court Number 316/Pdt.G/2023/PN.Amb arguing that the disputed object covering an area of 500 M located in the petuanan /ulayat of Amahusu District in Lausuhan District owned by Josias Soplanit belongs to Bartholumeus Diaz (heir) of Zadrach Diaz according to the Register list of hamlets of Amahusu District in 1814. The plot of land was inherited by 5 (five) heirs, namely: Alexander Diaz, Wihelmina A. Carels/Diaz, Victor Nicolaas Diaz, Thontje Hendrik Diaz and Bartholumeus Diaz (plaintiff). When the plaintiff's parents (Zadrak Diaz) died the disputed land plot was cultivated by one of the heirs, namely Alexander Diaz, so that the Amahusu State Government and Dusun Dati Lusuhan Josias Soplanit in accordance with the Register list of Dusun Dati in the Petuanan /Ulayat Area of Amahusu State gave permission to Alexander Diaz to continue to cultivate the disputed object, This can be corroborated by a statement letter from the Amahusu State Government and Saniri Negeri Amahusu based on a statement letter from the descendants of Josias Soplanit. The certificate given by the Amahusu State Government did not merely give rights to Alexander Diaz but also represented other heirs. In 1982 without the knowledge and permission of the plaintiff's parents (Zadrach Diaz, deceased) and without the knowledge and permission of the Amahusu State Government and the owner of Dati Lausuhan Hamlet, Joaias Soplanit, the grandmother of Nicolaas Herman Lelapary, applied to the Head of the Land Office of Ambon City to obtain proof of rights in the form of a Certificate of Title based on a decree issued by the Governor of Maluku with proof of rights in the form of Certificate of Title No. 478/ Nusaniwe Village dated May 25, 1982 Situation Drawing No. 45/F/72 dated October 11, 1972. Based on the above background, the problem raised in this paper is how does the legal power of Dati ownership rights affect certificate ownership?.

Research Method

The research method used is normative juridical, Soejono Soekanto and Sri Mamuji define normative research as legal research that involves examining library materials or secondary data. And using a conceptual and legal principle approach.

Result and Discussion

1. An overview of "Dati" Land

The term "dati" has many connotations. As Valerine stated: J.L. Kriekhoff, namely:

a. "Dati" as a geological unit;
b. "Dati" as a taxpayer unit;
c. "Dati" as a unit of compulsory labor;
d. "Dati" as mutual aid;
e. "Dati" or hamlet.

Furthermore, according to F. Valentijn, it is a hofdienst for which every household (huisgezin) is obliged to hand over a man for approximately one month to the VOC company to perform hongi duties without pay or at their own expense.

Similarly, the definition of "Dati" land on the island of Buru is people who carry out tasks for the benefit of kings as the leader of the government of the country concerned and for hongi, which work is done without receiving wages. Furthermore, according to Mr. F.D. Holleman Dati are relatives (Families) who carry out tasks for Hongi and Kuarto. In addition to carrying out tasks according to Holleman, Dati is also a compulsory labor unit (eenheid van dienstplicht).

The definition of Dati is also interpreted by some people with taxes or obligations (verpelichtingen), that is, people who are obliged to Dati are people who have to carry out one or another task, including the obligation to submit a product or production, submit a certain amount of money or do work.

2. Characteristics of Dati Land Tenure

Customary land is essentially a land right, but according to the national land law in force in Indonesia on September 24, 1960, customary land can become a property right if it has been converted. Conversion is the adjustment of a land right under the old law into a land right under the new law.

This adjustment also occurs for land rights subject to Western law (eigendom, Erfpacht, and opstal). The conversion of these Western rights into property rights, business use rights, building use rights, and use rights is based on the conversion provisions of the UUPA.

Land in the legal sense has a very important role in human life because it can determine the existence and continuity of legal relations and actions, both in terms of individuals and the impact on others. To prevent land problems from causing conflicts of interest in society, it is necessary to regulate, control and use of land or in other words, it is called land law.

Land law is the whole of legal provisions, both written and unwritten, all of which have the same object of regulation, namely tenure rights over land as legal institutions and as concrete legal relations, public and private aspects that can be systematically arranged and studied, so that the whole becomes a single unit that constitutes a system.

There are several types of land rights regulated under Western Civil Law, including:

1. Recht van Eigendom.
2. Right of Recht van Opstal
3. Right of Recht van Erfpacht.
4. Land Recht van Vruchgrebuick

The land ownership system according to customary law that can be owned by indigenous people can occur by: (a) clearing forests; (b) inheriting land; (c) receiving land due to gifts, exchanges or gifts, (d) expiration/verjaring.

3. Certification of Property Rights and Legal Power of "Dati" Land

Land is one of the most fundamental assets of the Indonesian State, because the State and nation live and develop on land. Indonesian society positions land in a very important position because it is the main factor in increasing agrarian productivity.

The regulation of ownership rights over land is regulated based on Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUDNRI 1945), which gives power to the State to control the land located in its territorial area, which is then explained that "The land, water and natural resources within are controlled by the state and used to the greatest extent for the prosperity of the people."

The above explicitly explains that property rights to land exist for all Indonesian people and the State is only given the authority to control, which means that it is only limited to having power over something or holding power or something while ownership is in all Indonesian people. The provisions of Article 33 paragraph (3) of the 1945 Constitution became the mandate for the formation of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (hereinafter referred to as UUPA).

The scope of the earth according to UUPA is the surface of the earth, and the body of the earth beneath it and under the water. The surface of the earth as part of the earth is also called land. The land referred to here does not regulate land in all its aspects, but only regulates one of its aspects, namely land in the juridical sense, which is called land tenure rights.

The notion of "tenure" can be used in a physical sense, as well as in a juridical sense, as well as private and public aspects. Thus, tenure in the juridical sense is tenure based on rights, which are protected by law and generally authorize the right holder to physically control the land.

The right to control land by the state as intended in Article 4 paragraph (1) of the UUPA can be interpreted as giving the state the authority to:

a. Regulate and organize the allocation, use, supply and maintenance of land.
b. Determine and regulate legal relationships between people and land.
c. Determining and regulating legal relationships between persons and legal acts concerning land.

Thus, the right to control by the state covers land that has already been granted by a person or legal entity as well as land that has not been granted or not. The difference with land that has already been haki is that the right to control by the state over the land is limited by the rights already owned by the individual or legal entity. Whereas on land on which there are no rights, the nature of control by the state is broader and fuller. In this sense, it does not mean that the rights of individuals or legal entities over land are no longer possible.

Property rights are very basic rights and are guaranteed by the Constitution. Article 28 paragraph (4) of the 1945 Constitution of the Republic of Indonesia stipulates that everyone has the right to have property rights and that such rights may not be taken over arbitrarily by anyone. Meanwhile, the UUPA as the basic regulation of national land law stipulates that land ownership rights are hereditary, strongest and fullest rights that people can have over land, bearing in mind the provision that all land rights have a social function.

Article 20 paragraph (1) of the UUPA states that: "property rightsis the hereditary, strongest and fullest right that people can have to land, bearing in mind the provisions in Article 6." In this paragraph, the formulation of property rights according to the UUPA is further emphasized, stating that this property rightsis the 'strongest' right that a person can obtain to land. Another characteristic of property rightsis that it is the "fullest" right.

The provision that the property rightsis the strongest and fullest right should not be interpreted in such a way that it means "absolute" as well as inviolable, as formulated in the Burgerlijk Wetboek hereinafter referred to as (BW). Such a characterization would clearly contradict the customary law and social nature of each right.

A property rights, in accordance with what is stipulated in Article 6 of the UUPA, has a social function. Therefore, it can be viewed as absolute and inviolable. Property rights are basic rights guaranteed by the Constitution. Article 28, paragraph 4, of the 1945 Constitution of the Republic of Indonesia states that everyone has the right to property and that these rights cannot be arbitrarily taken away. The UUPA, the basic regulation of national land law, stipulates that land ownership rights are the strongest and fullest rights people can have over land, bearing in mind that all land rights have a social function.

Article 20, paragraph 1, of the UUPA states: " property rights is the strongest and fullest hereditary right that people can have to land, bearing in mind the provisions in Article 6." This paragraph further emphasizes the UUPA's formulation of property rights, stating that it is the "strongest" right a person can obtain to land. Another characteristic of property rights is that it is the "fullest" right.

However, the provision that property rightsis the strongest and fullest right should not be interpreted as meaning "absolute" or inviolable, as formulated in the Burgerlijk Wetboek (hereinafter referred to as BW). Such a characterization would contradict customary law and the social nature of each right.

According to Article 6 of the UUPA, a property rightshas a social function. Therefore, it can be considered absolute and inviolable. When compared to other rights, it is property rights that we must view as the strongest and fullest rights

that a person can have. This right of ownership is also hereditary, so it can be inherited and bequeathed.

Furthermore, Article 20 Paragraph (2) states that: " A property right can be transferred and assigned to another party" This paragraph explains the "zakelijk" nature of property rights. Zakelijk is a right to an object that applies to everyone, so it is an absolute right. Because it is not personal (persoonlijk), it can be transferred and assigned to another party. This property right can be viewed as if it works against everyone. Because it is material in nature, this property right needs to be registered. One way or another, it needs to be registered in order to work against other parties.

According to Article 20 of the UUPA, the characteristics of property rights are as follows:

1. Hereditary: The right to own the land in question can be transferred by law from a deceased landowner to their heirs.
2. The right of ownership to the land is the strongest among other land rights.
3. Fullest: The right of ownership can be used for agricultural business and to build structures. When using property rights, attention must be paid to the social function of land. Namely, the use of land must not cause harm to others. The use of land must be adjusted to the circumstances and nature of the rights. There must be a balance between private and public interests. The land must be properly maintained to increase fertility and prevent damage.

Land with the position of property rights has long been recognized by the community. The ideal foundation of property rights is Pancasila and the 1945 Constitution. So juridically formal, individual rights exist and are recognized by the state. This is evidenced by the existence of the Basic Agrarian Principles Regulations stipulated in Law Number 5 of 1960 concerning UUPA.

The provisions regarding property rights are mentioned in Article 16 Paragraph (1) letter a, Basic Agrarian Law (hereinafter written as UUPA). According to Article 50 Paragraph (1) of the UUPA, "Further provisions concerning property rights property rights shall be regulated by Law. In the past, property rights in the Western legal sense was absolute. This is in accordance with their understanding, namely individualism, where the interest in their property cannot be contested. In Indonesia, land rights are divided into various types, both in terms of the type of right and the origin of the land certificate or proof of right.

During the Dutch colonial period, land rights in Indonesia were also categorized into 3 types of rights, namely:

1. Indigenous Indonesian rights, namely land rights according to customary law;
2. Western rights, i.e. land rights under Western law, which was the law brought by the Dutch East Indies Government to Indonesia along with European Law. In this case, the Dutch East Indies Government applied the principle of concordance by applying the rules applicable in the Netherlands to Indonesia;
3. Regional land rights over which there is still control from the local kingdom

Customary right of use over land is a right to land under customary law that has been granted to a certain person to use a piece of land for his or her benefit, usually land that is used in customary law on the basis of the right of use, and usually over paddy fields. Van Dijk states that customary land rights can be divided into:

a. Communion rights or land rights:

b. Communion rights that result in an exit, are:

1. Prohibition against outsiders to take advantage of ulayat land, except after obtaining permission and after paying recognitie;
2. Prohibition of restrictions or various binding regulations on people to obtain individual rights to agricultural land.

c. Individual rights over customary land, consisting of:

1. Customary property rights (inland bezitrecht) is an individual's right to land, where his energy and efforts have been continuously invested in the land, so that his power is increasingly evident and recognized by other members, and the power of the group/fellowship is diminishing, and individual power is getting stronger.
2. The right to collect land products (genotrecht) is, a personal right that has certain strength, namely about enjoying land products only, while the power over the land that is in the association, this right has temporary strength.
3. The right to collect produce (genotrecht) is a right obtained by an agreement between the leaders of the alliance and the person who manages a piece of land for one or two harvests.

According to customary law, land ownership by indigenous people can occur in one of two ways:

a. Clearing the forest.
b. Inheriting land.
c. Receiving land by gift, exchange, or inheritance;
d. Expiration/verjaring.

This right is owned and utilized jointly, both individually and in groups, and is regulated by the clan head. This customary right is generally not documented and covers a fairly large area. Although not written down, it is still recognized by both the customary law community and the wider community.

A person with a property right can do whatever they want, but their actions must not conflict with the law or violate the rights or interests of others as referenced in the Article. right of ownership has a social function to prevent property rights from being used in a way that conflicts with their purpose. This social function is legally based on Article 33, paragraph (3) of the 1945 Constitution, which states, "The land, water, and natural resources contained therein shall be under the control of the state and shall be used for the greatest prosperity of the people."

Subject of Property Rights The provisions regarding who can have Property Rights are regulated in Article 21 of the UUPA, namely, among others:

a. Only Indonesian citizens can have property rights;
b. The Government may determine by the Legal Entity that can have a property right and its conditions;
c. Foreigners who after the enactment of this law acquire property rights by inheritance without a will or mixing of assets due to marriage, as well as Indonesian citizens who have property rights and after the enactment of this law lose their citizenship

are obliged to relinquish their property rights within one year from the acquisition of the rights or the loss of citizenship. If after this period the right of ownership is not relinquished, the right will be nullified by law and the land will fall to the state, provided that the rights of other parties encumbering it continue;

d. As long as a person, in addition to having Indonesian citizenship, also has foreign citizenship, he cannot have a right of ownership to land and the provisions of Paragraph (3) of this Article shall apply to him.

In principle, only a single Indonesian citizen may own land with a property right (Article 21 paragraph (1) in conjunction with Article 4 of the UUPA). Taking into account these provisions, basically only a single Indonesian citizen, either alone or together with other people, can be the subject of a property right. This is then emphasized in Article 26 Paragraph (2) of the UUPA which states that:

"every sale, purchase, exchange, grant, gift by will and other acts intended to directly or indirectly transfer a right of ownership to a foreigner, to a legal entity unless stipulated by the Government as referred to in Article 21 paragraph (2), shall be void provided that the rights of other parties encumbering it shall continue and all payments received by the owner shall not be reclaimed."

In principle, it is not possible for legal entities to own land with a property right on the basis that for the purposes of organizing their businesses, legal entities do not absolutely need such a right. The needs of legal entities are considered to have been met by rights guaranteeing the control and use of the land in question for a sufficiently long period of time. Legal entities may not own land with a property right (Article 21 paragraph (2) of the UUPA), except those designated under a Government Regulation. Legal entities that can own land with a right of ownership as intended. Article 4 jo. Article 16 jo. Article 53 juncto PP 40/1996 and PP 41/1996. The State grants various types of land rights consisting of:

a. Individual rights that are civil in nature.
b. Management rights, which are special rights granted by the state to certain agencies to manage and benefit from.
c. Waqf land, i.e. land rights that were originally primary rights (ownership rights, building use rights, business use rights, use rights) and are then donated or handed over by the owner to a religious or other social body for waqf.

In the context of Indonesian land law, the distinction between Dati land and freehold certification has significant legal implications. The Ambon District Court's decision in case number 316/Pdt.G/2023/PN Amb is a relevant case study for examining the differences in legal force between land based on Dati customary law and land with a freehold certificate issued by the National Land Agency (BPN).

Dati land is part of the customary law system in Maluku, where land ownership is regulated based on descent or customary rights inherited from generation to generation within a customary community. In this case, the plaintiff claims that the disputed land is part of Dati Lausuhan, which is owned by the Soplanit family and has been cultivated by Zadrach Diaz since 1936. Thus, from a customary law perspective, continuous physical control and recognition by the customary community form the basis for legitimate land ownership.

Conversely, the defendant based his claim of ownership on a Certificate of Ownership (SHM) issued by the BPN based on a decree from the Governor of Maluku. Under the national legal system, a certificate of ownership is considered strong evidence of land ownership as outlined in the Basic Agrarian Law (UUPA) Number 5 of 1960. However, the Defendant's certificate is being questioned because it is suspected to have been issued without legitimate basis. This is because the land is still considered customary land and has not been granted to a specific individual.

The court ruling emphasized that, although customary rights to Dati land are legally recognized, they are often weak within the state land administration system. This creates conflict between customary rights holders and those who have obtained official certificates. In this case, the panel of judges determined that issuing a Certificate of Ownership Rights for land with customary status without releasing rights to the customary community or legal heirs is an unlawful act.

The analysis of the verdict reveals that the recognition of customary land continues to face challenges within the national legal system. Land that is passed down through generations often lacks strong written documentation, leaving it vulnerable to claims by parties with formal documents, such as a Certificate of Ownership. In this case, the court acknowledged that the defendant acquired the certificate without going through a legal process; thus, it did not have greater legal force than the previously existing customary rights.

Therefore, this verdict's legal implications indicate the need to reform the land administration system to accommodate customary lands like Dati land. This reform would prevent ownership conflicts due to the dualism between customary law and national agrarian law in the legal system. Additionally, this verdict sets an important precedent for indigenous communities to fight for their rights to customary land against claims from the formal certification system.

Generally, comparing the legal force of Dati land with the certification of ownership rights in this decision shows that, although the certificate has greater evidentiary force in the national legal system, the issuance process must still consider pre-existing customary rights. The decision emphasizes that, in cases of overlapping claims, courts must consider historical aspects of land ownership and the legality of certificate issuance processes.

This analysis aligns with the author's theory that the concept of land in Indonesian law emphasizes two aspects: the protection of human rights and legal certainty. According to Julius Stahl, four elements must be present for a rule of law (rechtstaat) to exist:

1. Protection of human rights;
2. division of power;
3. A government based on law, and
4. State administrative courts.

The Rechtsstaat legal system has one main characteristic: a written law system. This system emphasizes that all legislation formed by the authorities must be written. This written nature translates to certainty in applicable law.

According to Gustav Radbruch, four fundamental principles are closely related to the meaning of legal certainty:

1. Law is a positive thing, meaning positive law is legislation.
2. The law is based on facts, meaning the law is based on reality.
3. The facts stated in the law must be clearly formulated to avoid confusion regarding meaning or interpretation and to allow for easy implementation.
4. Positive law should not be easily changed.

In Indonesia's agrarian legal system, the debate over the relative legal force of land dati (customary land rights) versus certification of ownership rights is closely related to theories of justice and legal certainty. Land dati is an inherited right to land in the customary legal system, while a certification of ownership is state legal recognition of registered land ownership. The difference in legal status between the two raises issues regarding the legitimacy, legal protection, and justice of customary landowners under Indonesia's current legal system.

Based on the perspective of the theory of justice, the difference in legal force between dati land and certification of property rights can lead to inequality for indigenous peoples. Justice, according to John Rawls, must be oriented towards the principle of equal rights and opportunities for every individual, especially those in vulnerable groups. Indigenous people who own dati land often experience injustice because their rights are not fully recognized in the positive legal system. Dati land, despite being passed down through generations and having social legitimacy within indigenous communities, often does not have the same legal force as certified land. This results in the risk of losing land rights due to land conversion, land grabbing, or agrarian conflicts with those who have official certificates. Therefore, for the theory of justice to be realized, the state needs to ensure that dati land receives equal recognition with certified land through affirmative policies that accommodate the rights of indigenous peoples.

Thus, comparing the legal power of customary land and the certification of property rights to the theory of justice shows that Indonesia's agrarian legal system still faces challenges in providing fair protection to all levels of society. Justice demands that customary land rights be recognized and protected equally with certified land. Legal certainty requires clear regulations to prevent customary land from losing its legal status in the national legal system. A democratic rule of law must also ensure that the law does not favor certain groups but rather accommodates the diversity of legal systems in society.

According to the author, based on the above view, the legal force of the land ownership rights of "Dati" against the land ownership certificate has a legal basis in Article 5 of the UUPA, so it has legal certainty. Similarly, the Certificate of Ownership is regulated by Articles 20 to 27 of the UUPA. However, the existence of "Dati" land must be registered to have legal certainty. Therefore, in terms of proof in court, customary land that is not registered will be dominated or overpowered by the land ownership certificate.

Conclusion

Customary rights to dati land have legal force that is recognized in the national land system in addition to certificates of ownership rights. The issuance of a certificate of title to a dati land can be done by the dati owner whose data acquisition is through inheritance, therefore the issuance of a certificate of title to dati land must be done with the consent of the dati owner so that the certificate is legally valid. Thus, discussing the legal strength of dati land ownership against the certificate of ownership rights, dati land ownership is stronger because dati land ownership is communal and is part of the customary rights of indigenous peoples. Therefore, there needs to be a policy that strengthens the recognition of customary land through a legally valid mechanism, so that indigenous peoples are no longer in a vulnerable position in the national land law system.

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